



**JUSTICE AND PUBLIC
SAFETY CABINET
DEPARTMENT OF
JUVENILE JUSTICE
POLICY AND PROCEDURES**

**AUTHORITY and
REFERENCES:**
505 KAR 1:130;
KRS 15A.0652;
KRS 610.060;
KRS 635.060;
KRS 610.110;
KRS 610.120
2-JPAS-2-
7144,7145,7155
7157,7158,
7159, 7188

CHAPTER: Juvenile Services in Community

SUBJECT: Probation of Public Offenders

POLICY NUMBER: DJJ 606

TOTAL PAGES: 8

EFFECTIVE DATE: 1/04/2016

APPROVAL: Bob D. Hayter

Commissioner

I. POLICY

The Department of Juvenile Justice (DJJ) shall provide supervision to youth probated to the Department by a District Court, in compliance with all applicable state laws and regulations, and shall monitor compliance with the Conditions of Probation. Violations of probation shall be reported to the court after graduated sanctions and services have been exhausted or if the violation creates an imminent threat or significant safety risk to self or others. In addition, a recommendation may be made to the court for early termination of probation for youth who have completed community supervision and the community phase system, made measurable progress in treatment, and are assessed to be low risk to reoffend.

II. APPLICABILITY

This policy and procedure shall apply to all community services staff.

III. DEFINITIONS

Refer to Chapter 600

IV. PROCEDURES

A. Initiating Probation Services For Public Offenders:

1. Prior to initiating probationary services, the Department shall receive confirmation from the District Court judge that the due process requirements of KRS 610.060 and KRS 635.060(2) have been met. KRS 635.060(2) requires that at the time of the disposition, the youth shall be notified verbally and in writing by

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the court of the possible sanctions if the youth fails to comply with the expectations or Conditions of Probation.

2. A youth placed on probation to DJJ by the court shall remain subject to the jurisdiction of the court as set forth in KRS 635.060:
 - a. Youth adjudicated on an offense that is a violation: Probation shall not exceed thirty (30) days, except that the court may order up to three (3) months of supervision if the court ordered treatment includes a program that requires longer than thirty (30) calendar days.
 - b. Youth adjudicated on an offense that is an A or B Misdemeanor: Excluding offenses for which a youth has been declared sexual offender or an offense involving a deadly weapon, the period of probation shall not exceed six (6) months, except that the court may order up to twelve (12) months of supervision if the court ordered substance abuse or mental health treatment includes a program that requires longer than six (6) months to complete.
 - c. Youth adjudicated on an offense that is a Class D Felony: Excluding offenses for which a youth has been declared sexual offender or an offense involving a deadly weapon, the period of probation shall not exceed twelve (12) months.
 - d. Youth who are adjudicated and probated on a Misdemeanor or Class D Felony sexual offense are subject to the timeframe limitation as referenced in IV. A. 2. b. and c. above.
 - e. Youth adjudicated on an A, B, or C Felony, or an offense involving a deadly weapon, or for an offense in which the youth has not been declared a sexual offender, the youth may be placed on probation up to age eighteen (18).
3. Upon receipt of official notification of the order of probation from the court, the assigned Juvenile Service Worker (JSW) shall complete Conditions of Probation with the youth and parent or caregiver on the date of disposition. Copies of the Conditions of Probation shall be provided to the youth, parent or caregiver, and court if applicable.
4. The JSW shall use the following guidelines in regards to probation:
 - a. Any youth on probation shall reside in the community and shall be subject to conditions established by the court and the Department. The court or the Department may add, remove, or modify special conditions.
 - b. For courts that require the use of signed conditions created by the court, a copy of the completed DJJ Conditions of Probation shall be attached, in addition to the conditions established by the court.

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- c. In counties where the court process requires such, signed Conditions of Probation shall be presented to the District Court judge for signature, with the original filed in the District Court case.
 - d. The Conditions of Probation shall be signed by the parent or caregiver, JSW, and the youth on the day of disposition. Copies of the signed conditions shall be provided to the parent or caregiver and youth on the day of signing, or as soon as practical thereafter.
 - e. Youth on probation shall participate in community supervision, which shall include a phase system and graduated responses. Scheduled monitoring of progress shall be required as a condition of probation.
 - f. Youth on probation shall have an Individual Case Plan and case reviews. Reference DJJPP Chapter 6 (Case Planning and Participation in Treatment Planning).
 - g. For any probated youth whose residence or planned residence is out-of-state, the JSW shall refer the case for courtesy supervision through the Interstate Compact in accordance with DJJPP Chapter 2 (Interstate Referrals). The JSW shall notify the court of any such intended action.
 - h. The JSW shall have two phone contacts per month with the youth and the parent or caregiver when an Interstate Compact referral for courtesy supervision is pending.
- B. Youth that meet the requirements as a Qualifying Offender shall be subject to DNA collection in accordance with KRS 17.170. The following steps shall be completed within ten (10) days.
- 1. The JSW shall submit a DNA request memorandum to the JSDS for approval.
 - 2. Once approved the JSW shall coordinate with closest facility superintendent and RN and request a date for the youth to appear for sample collection.
 - 3. The JSW shall notify the youth and parent or care giver of the location, date, and time for sample collection.
 - 4. The JSW shall complete the DNA Sample Information Sheet (KSP 47) and electronically transfer to the facility RN.
 - 5. Once the JSW has receive confirmation that the sample has been collected, the JSW shall document in the electronic record.
- C. The JSW shall document in the electronic running record any violations of probation listing the date, condition violated, graduated sanctions and services utilized, and any other significant factors.

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- D. Any changes in the youth's conditions of probation or case plan shall require the signature of the youth, parent or caregiver, and JSW on the appropriate form. If the youth or parent refuses to sign, the JSW shall note on the form the refusal to sign.
- E. Reporting Probation Violations to the Court
1. Upon discovery of an alleged violation, the JSW shall investigate the violation and confer with the Juvenile Services District Supervisor (JSDS).
 2. The JSW and JSDS shall ensure graduated sanctions and services have been exhausted or the violation creates an imminent threat or significant safety risk to self or others prior to notifying the court. If a decision is made to present the probation violations to the court, the JSW shall complete the probation violation report, including a list of all graduated sanctions and services that have been utilized, and submit to the court, prosecutor, and youth's attorney within three (3) days prior to the scheduled court review.
 3. If individual courts require other documents with their local processes to initiate the probation violation hearing, the probation violation report shall be prepared and attached to the documentation required by the court.
 4. The JSW shall notify the youth and parent or caregiver of the probation violation report being filed with the court.
 5. Except where commitment has been probated pursuant to KRS 635.060 (5), a youth may not be committed or recommitted to DJJ for a violation of a condition of probation.
 6. If the court has previously imposed graduated sanctions for a violation of conditions of probation, or makes a finding that the graduated sanctions have previously been imposed, then the court may impose a sanction of up to thirty (30) days of detention for a violation of conditions of probation.
 7. For the court to probate or suspend commitment to DJJ, the youth shall have met commitment requirements pursuant to KRS 635.060 (4);
 - a. Adjudicated on a Misdemeanor or Class D felony and has had at least three (3) prior adjudications, excluding prior adjudications of offenses which were designated as violations, or at least four (4) prior adjudications of violations, which do not arise from the same course of conduct; or
 - b. Adjudicated for an offense involving a deadly weapon, an offense in which youth has been declared as a declared sexual offender, or a Class A, B, or C felony.
 8. If the court probates or suspends commitment, the youth shall be placed on conditions of probation. The above noted probation

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violation notification process to the court shall be followed if graduated sanctions and services have been utilized or the violation results in an imminent threat or significant safety risk to the youth or others. The Court may, after conducting a hearing, commit the youth to DJJ as a result of the probated or suspended commitment.

9. For new charges that occur while a youth is on probation:
 - a. Diversionary Agreements: Any allegation that results in the arrest or filed complaint against a youth on probation will be initially brought to the attention of a Court Designated Worker (CDW). If the CDW determines the case shall not be referred to juvenile court, the JSW shall:
 - i. Attend any conferences scheduled for the youth and parent or caregiver as requested by the CDW;
 - ii. Provide information as requested by the CDW to ensure the consistent implementation of the youth's case plan;
 - iii. Reinforce the guidelines for diversion with the youth and parent or caregiver; and
 - iv. Review or revise the case plan to incorporate the current situation.
 - b. Formal Petition: Any allegation that results in the arrest of or a filed complaint against a youth on probation will be initially brought to the attention of the CDW. If it is the determination of the CDW that formal court proceedings are warranted, a petition shall be filed with the approval of the County Attorney's office. The DJJ representative shall:
 - i. Appear with the youth at court hearings and observe all court procedures.
 - ii. Maintain a minimum of weekly contact if the youth is in a county operated detention.
 - iii. If adjudicated, complete and present a new Risk and Criminogenic Needs Assessment (RCNA) at the disposition hearing and be prepared to testify as to the content of the predisposition investigation report, if ordered, and offer supporting clarification to the dispositional recommendation. If the court commits the youth on a new charge, the JSW shall follow the procedures in the Classification and Placement Manual.
10. Family Situations: In some cases violations of probation are a direct result of chronic dysfunction or temporary situations within the family unit. If it is determined that violations are a result of the family situation and beyond the control of the youth, the JSW may:

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- a. Intensify services to the family.
- b. Initiate a protective services investigation when the safety of the youth is in question by reporting suspected abuse, dependency, neglect, or exploitation to Cabinet for Health and Family Services.
- c. Review the potential for an alternative, temporary placement. If an alternative, temporary placement is required, the JSW shall work with the parent or caregiver and the court to facilitate this placement. The court shall be notified by the JSW if the youth changes residences.
- d. Request a court review.

F. Termination of Probation

1. Youth probated on a violation, the period of probation shall not exceed thirty (30) days, except that the court may order up to three (3) months of supervision if the court ordered treatment includes a program that requires longer than thirty (30) calendar days.
2. Youth probated on a Class A or B Misdemeanor, excluding offenses for which a youth has been declared sexual offender or an offense involving a deadly weapon, the period of probation shall not exceed six (6) months, except that the court may order up to twelve (12) months of supervision if the court ordered substance abuse or mental health treatment includes a program that requires longer than six (6) months to complete.
3. Youth probated on a Class D Felony, excluding offenses for which a youth has been declared sexual offender or an offense involving a deadly weapon, the period of probation shall not exceed twelve (12) months.
4. Youth who are probated on a Misdemeanor or Class D Felony sexual offense are subject to the probation timeframe limitation as referenced in IV. F. 2. and 3. above.
5. Youth probated on a Class A, B, or C Felony, or an offense involving a deadly weapon, or for an offense in which the youth has not been declared a juvenile sexual offender, the youth may be placed on probation up to age eighteen (18). The exception shall be for youth placed on probation after reaching the age of seventeen (17) years and six (6) months, the probation shall be for a period not to exceed one (1) year.
6. Youth may be considered for early release from probation when they have completed their treatment goals and have maintained on Phase I of the community phase system. Early release for any youth who scores high risk to reoffend on the RCNA, shall be approved by the Division Director of Community and Mental Health Services.

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7. The JSW shall complete a RCNA reassessment in preparation for case closure.
8. The JSW shall complete a CMNA reassessment in preparation for case closure.
9. In preparation of the youth's release from probation, the JSW shall complete the discharge recommendation report on all cases and submit to the JSDS for approval.
10. In cases where the youth's adjudicated offense(s) were a Class A or B felony, the JSW shall forward, through the chain of command, a termination for probation request for approval by the Division Director of Community and Mental Health Services before any such request for termination of probation is made to the court.
11. The JSW shall submit the approved court report to the court through the Juvenile Court Clerk's Office and provide a copy of the report to the Judge and youth's attorney a minimum of three (3) days prior to the court review on all cases where early release of probation is being requested.
 - a. The JSW, who is the case manager, shall appear at the court review with the youth and parent or caregiver prepared to testify to the contents of the court report and offer supporting documentation if necessary.
 - b. If the court concurs with the recommendation to release the youth from DJJ probation supervision early, and signs an order to that effect, the JSW shall close the youth's case. The JSW shall document the termination of the case in running records according to the established guidelines.
12. In cases where the statutory timeframe for supervision will expire, the JSW shall send notification to the court fourteen (14) days prior to case closure.
13. The JSDS shall audit and approve the case to be closed within fourteen (14) calendar days and return to the JSW for corrections to be made within ten (10) business days, if required, prior to the JSW entering a final event date in the electronic record.

V. STAFF TRAINING

The Juvenile Services District Supervisor shall ensure that community staff are trained annually on the following:

- A. Probation supervision and case management;
- B. Reporting violations of probation to the court; and
- C. Termination of probation.

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VI. MONITORING MECHANISM

The Division Director of Community and Mental Health Services or designee and the Quality Assurance Branch shall develop monitoring protocols.